

ITEM:

SUBJECT: **Discharges from Irrigated Lands, Conditional Waiver of Waste Discharge Requirements (Resolution No. R5-2002-0201, Resolution No. R5-2002-0228):** *Consideration of Rescission of 5 December 2002 Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands in order to resolve allegations of bias, conflict of interest and procedural irregularities*

BOARD ACTION

Consideration of taking one or both of the following actions:

- 1) Rescind Resolution No. R5-2002-0228 adopting the Negative Declaration on 5 December 2002;*
- 2) Rescind Resolution No. R5-2002-0201 adopting the Conditional Waiver on 5 December 2002*

BACKGROUND

The Regional Board adopted a Conditional Waiver of Waste Discharge Requirements (Conditional Waiver) for discharges from irrigated lands and a related Negative Declaration at its 5 December 2002 meeting. The next day, the Board voted on a motion to reconsider its action. The motion failed three-to-three.

The Board noticed a 24/25 April 2003 public hearing to reconsider the Conditional Waiver and Negative Declaration. On 17 April 2003, the Board chair extended the comment period to 23 May 2003 and continued the hearing until the 10/11 July 2003 Board meeting. The Regional Board held a public meeting on 24 April 2003 and heard oral testimony from staff and interested parties.

After the 24 April hearing, representatives of various environmental organizations claimed that various improprieties occurred at the 5/6 December 2002 and 24 April 2003 hearings, as follows: one or more Board members has a conflict of interest or bias; one or more Board members had engaged in prohibited *ex parte* communications with representatives of the agricultural community; two or more Board members circulated a motion before or during the 24 April public meeting and/or discussed the motion outside of the public hearing; and the motion and vote of the Board at the 24 April public meeting violated the public notice of the meeting.

As a result, the State Water Resources Control Board's Office of Chief Counsel concluded that the Porter-Cologne Water Quality Control Act prohibits Board member Ms. Beverly Alves from participating in deliberations or voting on the Conditional Waiver.

Both the Office of Chief Counsel and the environmental organizations asked the Attorney General to investigate the matter. The Attorney General decided

not to seek Ms. Alves removal from office, as the environmental interests requested, but concluded that the Regional Board's process was "irreparably tainted." The Attorney General therefore recommended that the State Board conduct all further proceedings. The State Board has declined to do so at this time, but committed to review the Regional Board's action once the action is final.

Regional Board counsel concluded that Ms. Alves' participation and other alleged improprieties, even if they occurred, did not preclude the Regional Board from taking further action on the Conditional Waiver. Applicable decisional and statutory law allows the Regional Board to cure the actual and alleged procedural violations. Even if a court were to invalidate the Conditional Waiver and/or Negative Declaration as a result of any improprieties, the court would remand the matter to the Regional Board for further proceedings.

This item is solely for the purpose of curing any procedural violations that occurred in connection with the December 2002 or April 2003 hearings. It will not eliminate any options the Regional Board has to continue in effect, modify or rescind the Conditional Waiver or Negative Declaration. If the Board decides either today, or at a subsequent hearing, after consideration of the written and oral testimony, to continue the Conditional Waiver in effect, the Board can readopt the Conditional Waiver as adopted on 5 December 2002, with or without modifications, as appropriate.

ISSUES

- 1) Should the Board rescind the Conditional Waiver before conducting further hearings and deliberations and taking further action?
- 2) Should the Board rescind the Negative Declaration before conducting further hearings and deliberations and taking further action?

Mgmt. Review _____

Legal Review _____

10-11 July 2003 Region 5 Board Meeting

CVRWQCB

3443 Routier Rd., Suite A

Sacramento, CA 95827

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2003-

CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM IRRIGATED LANDS
WITHIN THE CENTRAL VALLEY REGION
RESOLUTION NOS. R5-2002-0201 AND R5-2002-0228

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board) finds that:

1. On 5 December 2002, the Regional Board adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver), Resolution No. R5-2002-0201 and a Negative Declaration, R5-2002-0228.
2. The following day, 6 December 2002, the Regional Board voted on a motion to reconsider the adopted Conditional Waiver, which motion failed on a vote of three-to-three.
3. The Regional Board held a public hearing on 24 April 2003 to consider comments from staff and the public regarding the Conditional Waiver.
4. The Regional Board passed a motion on 24 April 2003 giving direction to staff regarding revisions to staff's proposed revised Conditional Waiver, and concluding that the Regional Board would take no action on the Conditional Waiver at the 24 April 2003 meeting.
5. By letter dated 30 May 2003 the State Water Resources Control Board's Office of Chief Counsel advised Regional Board member Beverly Alves that California Water Code (CWC) Section 13207 prevents her from participating as a Regional Board member in the Regional Board's consideration or adoption of the Conditional Waiver since she is the co-owner of a farming business that could be subject to the Conditional Waiver.
6. Ms. Alves participated and voted in the 5/6 December 2002 actions, and participated in the Regional Board's deliberations on 24 April 2003 but did not vote on the motion
7. The California Attorney General has indicated that he does not intend to take any action pursuant to Section 13207.

8. DeltaKeeper, San Francisco BayKeeper, Natural Resources Defense Council, California Public Interest Research Group, The Ocean Conservancy, California Sportfishing Protection, which represent various environmental interests (collectively, the “environmental interests”) believe that the Conditional Waiver is void or voidable because one or more Regional Board members has a conflict of interest.
9. The environmental interests have claimed that the Regional Board violated requirements of the Bagley-Keene Open Meeting Act at the April 2003 board meeting.
10. Representatives of the environmental interests claim a lack of trust in the Regional Board and the process of considering and adopting the Conditional Waiver.
11. The Attorney General concluded that the Regional Board’s process was tainted.
12. The Regional Board, its staff and representatives of the environmental interests and agricultural community have spent countless hours in developing an agricultural regulatory program.
13. The Regional Board is committed to a fair and open process that allows the Regional Board to consider public comments on the Conditional Waiver, and desires to retain the trust of both the environmental and agricultural interests.
14. The Regional Board desires to eliminate any taint and cure any procedural errors that occurred in connection with Resolutions R5-2002-0201 and –0228, so that it can reconsider those Resolutions, subsequent staff proposals and reports, and public comment.
15. The Regional Board provided public notice of this hearing.
16. Regional Board counsel has concluded that the Regional Board can legally adopt a Conditional Waiver and environmental document, either as adopted in December 2002 or as further revised by the Regional Board, as long as any Regional Board members with a conflict of interest or common law bias recuse themselves from the proceedings.
17. The Regional Board is taking this action solely to cure any bias or other procedural defects that may taint the Conditional Waiver process, and does not intend for this Resolution to express any position on the substantive or technical merits of those actions.
18. The Regional Board considered all testimony and evidence at a public hearing on 10 July 2003.

THEREFORE BE IT RESOLVED:

1. That the Regional Board hereby rescinds Resolution R5-2002-0201 adopting the Conditional Waiver, in order to cure any bias or procedural defects that might invalidate that action; and
2. That the Regional Board hereby rescinds Resolution R5-2002-0228 adopting the Negative Declaration, in order to cure any bias or procedural defects that might invalidate that action.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____.

THOMAS R. PINKOS, Executive Officer



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Executive Office

1001 I Street, 25th Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5615 ♦ FAX (916) 341-5621 ♦ www.swrcb.ca.gov



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RECEIVED
SACRAMENTO
CVRWOCB

June 13, 2003

William J. Thomas, Esq.
Livingston & Mattesich Law Corporation
1201 K Street, Suite 1100
Sacramento, CA 95814-3938

Ms. Sejal Choksi
WaterKeepers Northern California
55 Hawthorne Street, Suite 550
San Francisco, CA 94105

Mr. Michael Lozeau
Earthjustice
553 Salvatierra Walk
Stanford, CA 94305-8620

Dear Messrs. Thomas and Lozeau and Ms. Choksi:

PETITIONS OF AGRICULTURAL WATER QUALITY COALITION (CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS, RESOLUTION NO. R5-2002-0201) AND DELTAKEEPER; SAN FRANCISCO BAYKEEPER; NATURAL RESOURCES DEFENSE COUNCIL; CALIFORNIA PUBLIC INTEREST RESEARCH GROUP; THE OCEAN CONSERVANCY; CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS, RESOLUTION NO. R5-2002-0201), CENTRAL VALLEY REGION: STATUS OF STATE WATER RESOURCES CONTROL BOARD REVIEW
SWRCB/OCC FILES A-1536 and A-1536(a)

The purpose of this letter is to set forth the procedure the State Water Resources Control Board (State Board) will follow in reviewing the above-captioned petitions. As stated in my prior letters, dated April 9 and 17, 2003, I encourage the parties to fully participate in ongoing proceedings regarding regulation of discharges from irrigated agriculture by the Central Valley Regional Water Quality Control Board (Regional Board). It is my understanding that the Regional Board will take further action on this matter at its July meeting. I encourage that Regional Board to allow for full and open participation by all interested persons, and that a full and complete administrative record will accompany whatever action it takes.

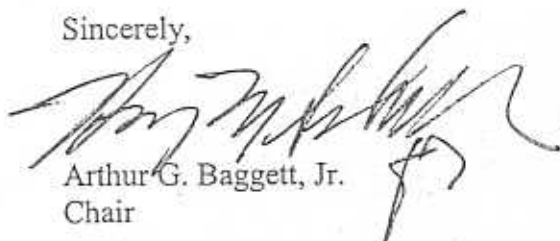
Upon completion of the action by the Regional Board, the State Board will conduct a full review pursuant to Water Code section 13320. The petitions that have been filed so far will be reviewed, as will the petition submitted by Mr. Lozeau and Ms. Choksi on May 19, 2003, which

will be consolidated with File A-1536(a). In addition, any interested person may file an amendment to their petition, or a new petition, within 30 days after the Regional Board acts in July. I do not intend that the State Board will accept evidence other than evidence that was accepted by the Regional Board, but we will consider any request based on alleged improper exclusion of evidence by the Regional Board.

I have received a request by Mr. Lozeau and Ms. Choksi, in their letter dated May 19, that the State Board act on its own motion to remove the impending action from the Regional Board and place it under the State Board's jurisdiction. I have decided not to follow that course of action. The Regional Board is in a much better position to act on the matter in the first instance, considering its available staff and their knowledge of the issues. I stress, however, that the Regional Board must ensure that an open and full discourse and record must be created, and that all interested persons should have the opportunity to comment on the action that is taken. In light of the great public interest in this matter, I will commit that the State Board will act on this matter and will issue an order, including conducting public workshop and Board meetings. The State Board will not consider dismissing the petitions without action by the Board itself.

If you have any questions about this matter, please contact Elizabeth Miller Jennings, Senior Staff Counsel IV, in the SWRCB's Office of Chief Counsel, at (916) 341-5175.

Sincerely,



Arthur G. Baggett, Jr.
Chair

cc: Ms. Brenda J. Southwick
California Farm Bureau Federation
2300 River Plaza Drive
Sacramento, CA 95833

Mr. George H. Soares
Kahn, Soares & Conway
1112 I Street, Suite 200
Sacramento, CA 95814

(Continued on next page)

DeltaKeeper/WaterKeepers
Northern California
3536 Rainier Avenue
Stockton, CA 95204

Attention: Bill Jennings

The Ocean Conservancy
116 New Montgomery Street, Suite 810
San Francisco, CA 94105

Attention: Linda Sheehan

cc: (Continued from previous page)

Natural Resources Defense Council
71 Stevenson Street, Suite 1825
San Francisco, CA 94105

Attention: Jonathan Kaplan

California Public Interest
Research Group
3486 Mission Street
San Francisco, CA 94110

Attention: Teri Olle

California Sportfishing Protection
Alliance
1248 East Oak Avenue, No. D
Woodland, CA 95776

Attention: Jim Crenshaw

Mr. Thomas R. Pinkos
Executive Officer
Central Valley Regional Water Quality
Control Board
3443 Routier Road
Sacramento, CA 95827-3003

Mr. James Pedri
Assistant Executive Officer
Central Valley Regional Water Quality
Control Board, Redding Office
415 Knollcrest Drive
Redding, CA 96002

Mr. Loren Harlow
Assistant Executive Officer
Central Valley Regional Water Quality
Control Board, Fresno Office
1685 E Street
Fresno, CA 93706-2020

Interested Persons



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

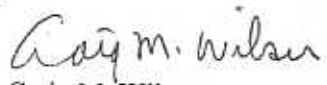
Office of Chief Counsel
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 • FAX (916) 341-5199 • www.swrcb.ca.gov



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TO: Board Members

FROM: 
Craig M. Wilson
Chief Counsel
OFFICE OF CHIEF COUNSEL

DATE: JUN 12 2003

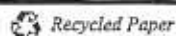
SUBJECT: CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD
CONSIDERATION OF WAIVERS OF WASTE DISCHARGE
REQUIREMENTS FOR IRRIGATED AGRICULTURAL LANDS: CONFLICT
OF INTEREST ISSUES

By letter dated April 20, 2003, the Attorney General's Office was asked to investigate allegations of "conflict of interest" involving the Central Valley Regional Water Quality Control Board (Regional Board) in the above-entitled proceeding.

The Attorney General's response of June 2, 2003, is attached. The letter contains advice and recommendations and as such is not binding on the State or Regional Board. Below, please find a summary of the Attorney General's conclusions and my response.

1. The Attorney General's letter concludes that one of the Regional Board members has a conflict pursuant to Water Code section 13207 and should not participate in the proceedings. This conclusion is consistent with advice given to the Board member by our office in May 30, 2003. A copy of that advice is attached.
2. It concludes that the member should not be removed from the Regional Board. I concur with this conclusion.
3. The Attorney General's letter recommends that training be given to members and staff of the State and Regional Boards regarding conflict of interest. As you know, such training is already being given. This training includes the following:
 - a. Each newly appointed Board member receives an extensive personal briefing from this office on conflict of interest requirements. Experienced State Board members ordinarily attend these briefings. New Board members also receive an

California Environmental Protection Agency



JUN 12 2003

Orientation Binder, which contains detailed information on these requirements.

- b. As required by law, all Board members and designated staff receive ethics training that includes review of conflict of interest requirements. This formal training takes place within 6 months of assuming office and is repeated bi-annually.
- c. At each Water Quality Coordinating Committee, an agenda item is devoted solely to legal issues. This agenda item always includes a discussion of conflict of interest issues.
- d. The Office of Chief Counsel has monthly staff meetings. At most of these meetings, conflict of interest issues are discussed.

I believe that the "conflict of interest" training provided to Board members and staff is extensive. If you would like me to explore additional training opportunities, please let me know.

- 4. The Attorney General's Office recommends, based on a concern that the proceedings before the Regional Board have been irreparably tainted by a potential or actual conflict of interest and open-meeting act issues, that the State Board act on its own motion to remove the waiver decision from the Regional Board and place it under the State Board's jurisdiction.

My response to this recommendation is as follows:

- 1. Water Code section 13320, in addition to allowing aggrieved parties to appeal Regional Board actions to the State Board, provides that the State Board may, on its own motion, review a regional board's action or failure to act.
- 2. The State Board has received appeals of the Regional Board's December 2002 action in this matter. The Regional Board is scheduled to reconsider the waiver action on July 10-11, 2003.
- 3. The State Board has the discretion to review the appeals that have already been filed. The State Board has three basic options:
 - a. To review the petitions before the Regional Board acts.
 - b. To wait for the Regional Board action and then proceed to review the matter.
 - c. To decide not to review the matter and to dismiss the petitions.

JUN 12 2003

4. My recommendation is that the State Board not take over the matter prior to the Regional Board's July proceeding, but that it make a commitment to review whatever action is taken. This course of action will allow the Regional Board to develop a full record and will put all interested persons on notice that the State Board will hear the matter. It is also consistent with the Chairman's letters of April 9 and 17, 2002 (correspondences attached).

Attachments (3)

cc: Celeste Cantú, EXEC

bc: Harry Schueller, EXEC
Tom Howard, EXEC

CMWilson/dvmatullis
06-12-03

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Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Office of Chief Counsel

1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ www.swrcb.ca.gov



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TO: Central Valley RWQCB Members

Lori T. Okun

FROM: Lori T. Okun
Staff Counsel
OFFICE OF CHIEF COUNSEL

DATE: June 11, 2003

SUBJECT: WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR IRRIGATED
AGRICULTURAL LANDS: CONFLICT OF INTEREST ISSUES

The purpose of this memorandum is to briefly summarize the recent complaints by various environmental interests regarding conflicts of interest and Open Meeting Act violations; and respond to the Attorney General's recommendation that the State Board take this matter up on its own motion because the process has been "irreparably tainted." As you know, the Attorney General concluded that it would not seek to dismiss Beverly Alves from the Regional Water Quality Control Board, Central Valley Region (Regional Board or Board). The Attorney General recommended, however, that the State Water Resources Control Board (State Board) take up the Conditional Waiver of Waste Discharge Requirements for Irrigated Agricultural Lands on its own motion because the Regional Board's proceedings "have been irreparably tainted by a potential or actual conflict of interest, and because [the Attorney General's office is] aware of allegations implicating the open-meeting requirements of the Bagley-Keene Act."¹

The environmental interests have requested the State Board to stay all further Regional Board proceedings and take up this matter. They believe this action would be appropriate because (1) Water Code section 13207 prohibits Board member Alves from participating in the waiver decision; (2) they have concerns regarding Board member Longley's association with California Water Institute; (3) Board member Brizard wrote a memorandum requesting that Executive Officer Thomas Pinkos reassign the matter to Regional Board staff who have the trust of agricultural interests; (4) they believe one or more Board members had *ex parte* contacts and/or circulated draft motions before the 24 April vote; and (5) they believe the public notice of the 24 April Board meeting deprived them of the right to comment on the waiver.

The principles of common law bias and the Bagley-Keene Open Meeting Act (Bagley-Keene Act or Act) provide for nullification of an action taken in violation of their requirements, followed by

¹ Letter from Peter Siggins to Craig M. Wilson (June 2, 2003) (copy attached).

a remand to the deciding agency for further proceedings in compliance with the requirements. The Regional Board process would be "irreparably tainted" only if the Board members conclude that they cannot conduct a fair, impartial hearing on the record. Unless the Board reaches that factual conclusion, the relevant legal authority does not preclude the Regional Board from conducting further proceedings on the matter.

Effect of Beverly Alves' Votes. Board member Beverly Alves has a conflict of interest under Water Code section 13207.² The process was thus tainted, since Ms. Alves voted and her vote changed the outcome. This does not *per se* nullify the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver)³ or the resolution the Board adopted on 24 April 2003, but a court might invalidate these actions under the common law bias doctrine. This does not mean, however, that the process is *irreparably* tainted. Cases finding bias have remanded the matter to the public body for further proceedings without the biased member.⁴ Also, Ms. Alves could have appeared before the Board as a member of the public and presented her arguments and personal opinions.⁵

Since the remedy for bias would be a remand to the Regional Board for further proceedings, and since Ms. Alves could have expressed her opinions to the Board, the section 13207 conflict does not make the taint legally "irreparable."

Allegations Regarding Karl Longley. Board Member Longley's position with the California Water Institute (CWI) does not create a conflict of interest under section 13207 or the Political Reform Act. CWI is not a discharger so section 13207 does not apply. CWI is part of California

² Senior Staff Counsel Frances McChesney advised Ms. Alves by letter dated 30 May 2003 that she does not have a conflict of interest under the Political Reform Act.

³ The waiver defined "irrigated lands" to include irrigated cropland (both field and tree crops), commercial nurseries, nursery stock production, and managed wetlands.

⁴ See, e.g., *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152. *Clark* involved conduct far more egregious than anything that happened here. The case involved the City's grant of a conditional use permit to a project that would have block the view from a council member's residence. Prior to his election, the council member opposed the project as a private citizen. He continued to harass the proponents after his election, going so far as to publicly urinate on their property. Even there, the court did not consider the process to be "irreparably tainted," since the court remanded the matter to the City for further proceedings without the harasser.

⁵ Water Code section 13207 does not define what it means to "participate," so the Political Reform Act is instructive in determining what a board member with a section 13207 conflict can or cannot do. Under the Act, a conflicted member can legally appear before the board in open session and speak when the general public speaks on the issue and communicate with members of the public or the press. Government Code § 87105, subdivision (a)(4); 2 Cal. Code of Regs. § 18702.4(a)(2), (b)(1)-(2); see also, pending 2 Cal. Code of Regs. § 18702.5 (adopted by FPPC on 5/9/03 and submitted to OAL).

State University, Fresno (CSUF). CSUF pays all of Dr. Longley's salary.⁶ Salary received from a state agency is not "income" for purposes of the Political Reform Act⁷ so Dr. Longley's position with CWI cannot create a conflict of interest under the Act.⁸

The facts described by the environmental interests are insufficient to constitute common law bias without a showing of actual bias.⁹ If Dr. Longley concludes he cannot make a fair and impartial decision based on the record, he should recuse himself from further participation. Otherwise, he may participate.

Alson Brizard Memorandum. Board member Alson Brizard's memorandum to Thomas R. Pinkos, regarding staffing the Conditional Waiver, has no effect on the validity of the Conditional Waiver. The environmental organizations have cited no provision of law that Board member Brizard's communication violates. Mr. Pinkos declined to change the current staffing of the Conditional Waiver, so no one has been prejudiced.¹⁰ Board members are entitled to have opinions about issues within their jurisdiction. Such opinions do not constitute prohibited bias. The fact that Mr. Brizard believes it is important for staff to gain the trust of the agricultural community does not indicate any prohibited bias.

Ex Parte Communications. The Conditional Waiver is a quasi-legislative act. *Ex parte* communications are permitted, but should be disclosed on the record. Any Board members who have received such contacts and have not disclosed them should do so before participating in the 10/11 July hearing.

Bagley-Keene Act Implications. The Bagley-Keene Act requires the Board to deliberate in public and to provide public notice. The 24 April 2003 resolution, although not a model of clarity, was within the scope of the public notice. The Board deliberated in public. The

⁶ For budgeting purposes, CSUF staff salaries are treated as line items of various funding sources. Proposition 13 stipulated that certain funds would be paid by the Department of Water Resources to CSUF to fund CWI. In the university budget, CWI or Proposition 13 is shown a funding source for part of Dr. Longley's salary. The amount of salary that CSUF pays Dr. Longley does not change based on his association with CWI. DWR, CWI and CSUF are all state agencies.

⁷ Gov. Code § 82030, subd. (b)(2); 2 Cal. Code of Regs. 18232.

⁸ Also, the possibility of a contract between CWI and the agricultural community does not appear reasonably foreseeable. The PRA requires that a financial impact be reasonably foreseeable to create a conflict. (*Smith v. Superior Court* (1994) 31 Cal.App.4th 205, 212, citing *In re Thorner* (Dec. 4, 1975) FPPC Dec. No. 75-089 [1 FPPC Opns. 198]; see also Gov. Code § 18703; 2 Cal. Code of Regs. § 18706.) A more stringent monitoring program would require even more monitoring and a potentially larger contract.

⁹ An interested party claiming bias must show actual bias, and not merely the appearance of impropriety; bias and prejudice are never implied. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205.)

¹⁰ Of course, future staffing changes can be made, and are an appropriate subject of discussion at an open session of the Regional Board unless confidential personnel issues are involved.

resolution differed substantially from one that Bill Jennings received on 23 April from an anonymous tipster.¹¹ The Attorney General's office concluded the April resolution was not a final "action."¹² Even if some Board members had reviewed proposed language, the motion the Board ultimately passed was read twice in public and was the subject of extensive public deliberations. Any prejudice that the confusing notice may have created will be cured when the Board holds the 10/11 July meeting and considers all public comments, including those that the environmental community submitted between 24 April and 23 May.

The Bagley-Keene Act also requires notice of any public meeting. Generally, a description of twenty words or less is adequate.¹³ The notice of the 24 April meeting stated that the Board could give direction to staff but that it would not vote on proposed revisions to the 5 December conditional waiver. The Board voted to take no action on 24 April and gave staff direction on proposed revisions to the Conditional Waiver. The public had an additional month, until 23 May, to submit comments not only on the staff proposal presented in April, but also on the Board's directions to staff. The Board took no final action on the proposal. Clearly, the public notice generated confusion, even on the part of the Board. Even if the confusion was such that the notice violated the Act, the Board can cure the violation by holding another properly noticed hearing and/or rescinding the April resolution. (Gov. Code § 11130.3, 11130.5; *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109 [considering Brown Act].)¹⁴

The Act's proscription against a majority of the members developing a collective concurrence except in a noticed meeting¹⁵ is intended to prevent a public agency from conducting "serial meetings" to avoid the Act's open meeting requirement. The environmental interests have argued that private deliberations by less than a majority of the Board outside the meeting (e.g., if some members circulated or discussed a draft motion) violate this requirement or the open

¹¹ Mr. Jennings has advised the Board that on 23 April he received an anonymous e-mail advising him that "a Board member, on behalf of agriculture, would make the following motion: 'I move that the Board indefinitely postpone any action on the proposed revisions to the conditional waiver offered by staff and that we direct staff to immediately take the necessary efforts to help the watershed groups prepare the general reports by June 2003 as described in the existing resolution (R5-2002-0201) adopted by the Board on December 5, 2002 and to supplement the programs provided under the resolution. For those wishing to provide written comments for the record, the public comment period will be open until the close of business on May 23, 2003.'"

¹² See also, *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109: conferring with and giving direction to staff is not an "action" under the Brown Act, at least where the City took no vote and "made no collective decision, commitment or promise."

¹³ Gov. Code § 11125, subdivision (b).

¹⁴ Section 11130.5 provides prevailing party fees where a party seeks nullification of an action taken in violation of the Act. A court can award fees to the Regional Board if such an action is clearly frivolous and lacking in merit. (*Id.*) If the Regional Board cures the alleged violations, if any occurred, a subsequent civil lawsuit would be frivolous and meritless.

¹⁵ Gov. Code § 11122.5.

deliberation purpose of the Act. I am unaware of any such deliberations occurring at or before the April 2003 meeting. However, even if those deliberations had occurred, no interested party suffered any prejudice since the Board conducted public deliberations in which all participating Board members stated their views.¹⁶

Since the Regional Board is statutorily able to cure any violations of the Act that the environmental interests believe occurred on 24 April, the proceedings are not legally irreparable.

Remedies for Violations. The Regional Board's proceedings may have been tainted by the alleged violations, but not irreparably so. The remedies for both common law bias and Bagley-Keene violations, assuming any occurred, are nullification and remand. The Board can take this step on its own by taking another vote at a noticed, open meeting. If any interested party is still unsatisfied with the process after the 10/11 July hearing or any subsequent Regional Board meeting at which this matter is finally resolved, that party will have the opportunity to request the State Board to cure any procedural problems by considering whatever waiver (or decision not to have a waiver) the Regional Board ultimately adopts. The Regional Board and its staff have worked very hard for years to develop an agricultural program. Having the State Board stay the Regional Board proceedings shortly before the Regional Board completes the process appears unnecessary and wasteful of State and Regional Board resources.

The record is clear that the Board extended the public comment period and delayed the matter to July to allow all interested parties *more* time to comment, and to allow staff and the Board sufficient time to consider the comments in making sound recommendations or decisions. Unfortunately, the public notices, the confusing April Board resolution, and the allegations of illegal deliberations created an appearance of impropriety and increased the mistrust various environmental organizations have of the Regional Board. Nevertheless, substantial legal authority permits the Regional Board to cure any actual or perceived procedural problems at the 10/11 July hearing as long as the participating Board members conclude they can conduct a fair, impartial hearing.

Attachments

cc: See next page

¹⁶ Similarly, the criminal penalties under the Bagley-Keene Act do not apply. Violation of the Bagley-Keene Act is a misdemeanor only if a member attends a meeting in violation of the Bagley-Keene Act, and intends to deprive the public of information to which the member knew or should have known the public was entitled. (Gov. Code § 11130.7.) The environmental interests concede that they received a copy of the motion the day before the hearing, agriculture allegedly drafted for the Board, and no party has argued that any other information was improperly withheld.

cc: Thomas R. Pinkos
Executive Officer
Central Valley Regional Water Quality
Control Board
3443 Routier Road, Suite A
Sacramento, CA 95827-3098

Craig Wilson, OCC
Ted Cobb, OCC

Peter Siggins, Deputy Attorney General
Office of the Attorney General
Government Section
Department of Justice
1300 I Street, Suite 1100
Sacramento, CA 95814



COPY

STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

PETER SIGGINS
Chief Deputy Attorney General
Legal Affairs

June 2, 2003

Craig Wilson, Chief Counsel
State Water Resources Control Board
901 P Street
Sacramento, CA 95814

Re: Central Valley Regional Water Quality Control Board

Dear Mr. Wilson:

In your letter to Senior Assistant Attorney General Mary Hackenbracht dated April 29, 2003, you referenced certain conflict-of-interest and open-meeting allegations involving Beverly Alves at the Central Valley Regional Water Quality Control Board (Central Valley Regional Board). You asked the Office of the Attorney General to conduct an independent inquiry in this matter and to recommend appropriate actions to address the requirements of the Bagley-Keene Open Meeting Act and Water Code section 13207.

As you requested, we have conducted a factual inquiry and an analysis of controlling law. Based on our inquiry and analysis, we do not intend to initiate an action under Water Code section 13207, subdivision (c) to remove Ms. Alves from the Central Valley Regional Board. Nonetheless, because the facts presented raise a reasonable concern that the waiver proceedings before the Central Valley Regional Board have been irreparably tainted by a potential or actual conflict of interest, and because we are aware of allegations implicating the open-meeting requirements of the Bagley-Keene Act, we recommend that the State Water Resources Control Board (State Board) remove the waiver decision from the Central Valley Regional Board and place it under the State Board's jurisdiction. (See Water Code § 13320, subd. (a).) We also recommend that training be provided to members and staff of the State Board and all regional boards, covering, at a minimum, the provisions of Water Code section 13207, other applicable conflict-of-interest laws and the requirements of the Bagley-Keene Open Meeting Act.

Craig Wilson, Chief Counsel
June 2, 2003
Page 2

SUMMARY OF FACTS

The nine Regional Water Quality Control Boards are charged with protecting the quality of the water resources of this state. (Water Code, §§ 13000, 13001.) The regional boards carry out their mission by regulating the discharge of "waste," which is broadly defined as including sewage "and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal." (See e.g., Water Code, §§ 13050(d), 13225(b), 13228.14, 13243, 13260.) Since 1982, the regional boards have exempted agricultural operations from regulation as waste dischargers.

In 1999, the Legislature acted to limit blanket exemptions for discharge requirements. Senate Bill 390 amended Water Code section 13269 to provide that waivers in effect on January 1, 2000, would automatically expire on January 1, 2003, if the regional boards did not terminate the waivers prior to that deadline. (Water Code, § 13269(b)(1).) Existing waivers that were not terminated prior to 2003, could be renewed by the regional boards, but only in five-year increments. (*Ibid.*) The regional boards are now required to reconsider their exemptions for agriculture at least twice each decade.

The Central Valley Regional Board, like the other regional boards, is statutorily-composed of nine members appointed by the Governor and subject to Senate confirmation. (Water Code, § 13201.) The nine seats on the regional boards are designated to be broadly representative. Five seats are reserved for members who are "associated with" (1) "water supply, conservation, and production," (2) "irrigated agriculture," (3) "industrial water use," (4) "municipal government," and (5) "county government." (Water Code, § 13201(a).) One member must come from a non-governmental organization associated with recreation, fish or wildlife. (*Ibid.*) The final three positions are reserved for persons not specifically associated with any of the first six categories, with the provision that at least two of the final three members shall have special competence in water quality issues. (*Ibid.*)

Beverly Alves is a board member on the Central Valley Regional Board. She occupies one of the seats reserved for members associated with irrigated agriculture. We understand that Ms. Alves is a co-owner of David Alves Farming, a 1,200-acre ranch in the Sacramento Valley, and that she is a member of the California Farm Bureau.

The Central Valley Regional Board considered the issue of whether to extend the waiver of discharge requirements for agriculture at its meeting on December 5, 2002. On that date, the regional board voted to grant a two-year conditional waiver, but indicated that it intended to revisit the waiver issue in the near future due to the large number of comments that the board had received. The day after approving the conditional waiver, the board denied a motion to reconsider its action. Ms. Alves voted on the conditional waiver and the motion for reconsideration.

Craig Wilson, Chief Counsel
June 2, 2003
Page 3

On January 3, 2003, DeltaKeeper, San Francisco BayKeeper, and four other environmental groups petitioned the State Board for review of the Central Valley Regional Board's waiver decision. The petition alleged that Ms. Alves failed to disclose a conflict of interest under Water Code section 13207 at the December 5 meeting.

On April 10, 2003, the Central Valley Regional Board issued a notice for its meeting on April 24 and 25. Among other things, the notice stated that the board "will be considering alternatives to regulation of discharges from irrigated lands, including continuing the use of, adoption of revisions to, or rescission of the Conditional Waiver, or directing staff to take related action."

One week later, on April 17, 2003, Central Valley Regional Board Chairman Robert Schneider sent out a letter to all interested parties regarding the April 24-25 meeting. It stated that the board had received communications expressing concern about the lack of time to submit comments prior to the meeting. Because of this lack of time, the public comment period on amendments to the conditional waiver was extended until May 23, 2003. The letter stated that, although the board would still hold a hearing on this item at the April 24-25 meeting, it "will not take action with respect to the proposed revisions to the Conditional Waiver, but may take other actions as noticed, including giving additional direction to staff. The Regional Board will postpone action on the revisions to the Conditional Waiver until its meeting scheduled for 10/11 July in Sacramento."

At the April 24 meeting, the Central Valley Regional Board reaffirmed that the conditional waiver would remain in place and directed staff to (1) work with the principals to develop "scientifically defensible" water quality and monitoring proposals; (2) devise a mechanism for encouraging parties who should be participating in the watershed process to participate; (3) not consider a fee schedule at this time; and (4) work with the principals to develop a definition of a watershed group. Ms. Alves did not vote, but she was involved in the discussion.

On May 2, 2003, Central Valley Regional Board Executive Officer Thomas R. Pinkos sent out a notice regarding the April 24-25 meeting and the scheduled July 10-11, 2003, meeting in response to what he described as "confusion" regarding the board's actions. Mr. Pinkos stated that the December 2002, conditional waiver was neither rescinded nor amended at the April meeting. He stated that the board's staff would continue to work with interested parties to comply with the conditional waiver, including the preparation of a report that is due on June 30, 2003.

DISCUSSION

Water Code section 13207 provides as follows:

- (a) No member of a regional board shall participate in any board action pursuant to Article 4 (commencing with Section 13260) of Chapter 4, or Article 1

Craig Wilson, Chief Counsel
June 2, 2003
Page 4

(commencing with Section 13300) of Chapter 5, of this division which involves himself or herself or any waste discharger with which he or she is connected as a director, officer or employee, or in which he or she has a financial interest in the decision within the meaning of Section 87103 of the Government Code.

(b) No board member shall participate in any proceeding before any regional board or the state board as a consultant or in any other capacity on behalf of any waste discharger.

(c) Upon the request of any person, or on the Attorney General's own initiative, the Attorney General may file a complaint in the superior court for the county in which the regional board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed.

Our inquiry indicates that Ms. Alves' farming interests would be affected by a decision involving waste discharges from agricultural properties. In addition, it appears that Ms. Alves participated in both the December and April meetings, even though she abstained from voting at the April meeting. (*Cf.* Cal. Code Regs., tit. 2, § 18702 *et seq.*; *Stigall v. City of Taft* (1962) 58 Cal.2d 565.) The facts also suggest, however, that (1) the decision at the December meeting in which Ms. Alves participated was, in effect, an interim determination to maintain the status quo pending further review by the Central Valley Regional Board; (2) the Central Valley Regional Board is continuing to review the waiver issue and has not yet made a final determination; (3) at all relevant times, Ms. Alves believed that her farming interests did not present a conflict of interest under the Political Reform Act; (4) the members of the Central Valley Regional Board have not received formal training on the provisions of Water Code section 13207; (5) until April 24, Ms. Alves was unaware that her farming interests might present a conflict of interest under Water Code section 13207; (6) when Ms. Alves became aware that her farming interests might present a conflict of interest under Water Code section 13207, she abstained from voting on the waiver issue; and (7) the decision of April 24, in which she participated notwithstanding her purported abstention, was not a final decision.

Water Code section 13207, subdivision (c) provides that in an action to remove a board member from office, it is necessary to prove that the board member "knowingly violated" Water Code section 13207. After taking all the facts into consideration, and in light of a lack of legal authority interpreting the provisions of Water Code section 13207, we have determined not to file an action.

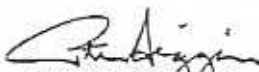
Nonetheless, the facts presented do raise a reasonable concern that the waiver proceedings before the Central Valley Regional Board have been irreparably tainted by a potential or actual conflict of interest. We are also aware of allegations implicating the open-

Craig Wilson, Chief Counsel
June 2, 2003
Page 5

meeting requirements of the Bagley-Keene Act. To address these concerns, we recommend that the State Board act on its own motion to remove the waiver decision from the Central Valley Regional Board and place it under the State Board's jurisdiction. (See Water Code, § 13320(a).) We also recommend that training be provided to members and staff of the State Board and all regional boards, covering, at a minimum, the provisions of Water Code section 13207, other applicable conflict-of-interest laws and the requirements of the Bagley-Keene Open Meeting Act. The conflict training can be presented as a part of the ethics training mandated for the State Board, regional boards and their staff under Government Code section 11146. (See also Water Code, § 13292 [requiring the State Board to provide regional boards with certain training beginning July 1, 2003].)

Please give me a call if you would like to discuss these recommendations.

Sincerely,



PETER SIGGINS
Chief Deputy Attorney General
Legal Affairs



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Office of Chief Counsel


1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ www.swrcb.ca.gov



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Governor

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TO: Beverly Alves
RWQCB Member
Central Valley RWQCB
3443 Routier Road, Suite A
Sacramento, CA 95827-3098

FROM: 
Frances L. McChesney
Senior Staff Counsel
OFFICE OF CHIEF COUNSEL

DATE: May 30, 2003

SUBJECT: IRRIGATED LANDS WAIVER OF WASTE DISCHARGE REQUIREMENTS

This memorandum is to confirm our discussions on the above subject. Based on information presented to me by interested persons just prior to the start of the Central Valley Regional Water Quality Control Board's (Regional Board's) hearing on April 24, 2003, to consider a waiver of waste discharge requirements for irrigated lands, I reevaluated whether you have a conflict of interest in that matter. Although after reevaluation, I still conclude that you do not have a conflict of interest under the Political Reform Act (PRA), as I previously advised you, I also concluded and advised you that, as an owner of property with discharges that are addressed by the waiver, you do have a conflict pursuant to California Water Code section 13207. I apologize that I did not advise you sooner, and appreciate your desire to understand and comply with the various conflict of interest provisions that apply to Regional Board Members.

It is my understanding that now that you are aware of the conflict, you do not intend to participate any further in the matter involving the irrigated lands waiver. For this type of matter – a rulemaking-type proceeding – what that means, in part, is that you may not (1) sit at the dais, (2) vote on the matter, (3) attend closed sessions where the matter is being discussed, or (4) discuss the matter with other Regional Board Members.

Beverly Alves

- 2 -

May 30, 2003

Please contact me at 916-341-5174 if you have further questions.

cc: Elton Randolph Garner, Jr.
110 South Plumas Street
P.O. Box 908
Willows, CA 95988

Phil Wyels, Esq.
Office of Chief Counsel
State Water Resources Control
Board
1001 I Street, 22nd Fl. [95814]
P.O. Box 100
Sacramento, CA 95812-0100

CALIFORNIA LEGISLATURE

MEMBERS

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VICE-CHAIR

BETTY KARNETTE

WM. J. "PETE" KNIGHT

GLORIA ROMERO



GREGORY SCHMIDT
SECRETARY OF THE SENATE
NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

JOHN L. BURTON
CHAIRMAN

May 6, 2003

Robert Schneider, Chair
Central Valley Regional Water Board
3443 Routier Road, Suite A
Sacramento, CA 95827-3003

Dear Chairman Schneider:

I'm writing to express my outrage at the Board's action at a Board meeting on April 24 concerning the regulation of agricultural discharge. It appears this action was engineered by agricultural lobbyists and specifically designed to undercut the public comment period which had been extended until May 23rd. It is my understanding that on a 4-3 vote the Board adopted a motion calling for "no action" on the agriculture waiver issue, and directing staff not to even explore a fee structure for agricultural waivers. The Board's direction to staff sends the clear message that the Board already knows what the final program will be and is merely "running the clock" on public participation.

The public depends on the fundamental fairness of the proceedings of appointed bodies. When a meeting is called with the clear understanding that final action will not be taken until a subsequent meeting, it is nothing short of the betrayal of the public trust to acquiesce to special interest pressure to take a vote.

The issue of whether and to what extent agricultural discharges should be regulated is obviously a major and controversial issue in which the Legislature has a strong interest. As I'm sure you appreciate, the long-term implementation of whatever the Board decides will depend on public respect for the decision-making process. Restoring the public's faith in the Board will take some time, and I deeply regret that you and other Board members will have your attention directed to repairing a public trust that never should have been violated. The more controversial the issue, the more important it is that the public process be above reproach.

I recognize that aspects of this meeting are appropriately under legal investigation. I look forward to the results of the Attorney General's investigation into this matter. I am pleased that the State Water Board has issued a memorandum explaining that the vote will not deprive the

public of the right to comment on a variety of important issues. I urge you to use this memorandum to direct staff to pursue a draft fee structure for this program; thus enabling the Board to decide whether administrative fees should or should not be a part of the solution.

The Board has taken important votes that have contributed to overall water quality in your jurisdiction, and I appreciate your leadership in that regard. I'm deeply distressed by the fact that favoritism on procedural grounds was shown at this last meeting, and I recognize that you share that concern.

Peace and friendship,



JOHN L. BURTON

JLB:nsek



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Executive Office

1001 I Street, 25th Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5615 • FAX (916) 341-5621 • www.swrcb.ca.gov



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APR 17 2003

Mr. Robert Schneider, Chair
Central Valley Regional Water Quality
Control Board
2402 Westemess Road
Davis, CA 95616

Mr. Thomas R. Pinkos, Executive Officer
Central Valley Regional Water Quality
Control Board
3443 Routier Road
Sacramento, CA 95827-3003

Dear Mr. Schneider and Mr. Pinkos:

PETITIONS OF AGRICULTURAL WATER QUALITY COALITION; DELTAKEEPER;
SAN FRANCISCO BAYKEEPER; NATURAL RESOURCES DEFENSE COUNCIL;
CALIFORNIA PUBLIC INTEREST RESEARCH GROUP; THE OCEAN CONSERVANCY;
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (CONDITIONAL WAIVER OF
WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS,
RESOLUTION NO. R5-2002-0201), CENTRAL VALLEY REGION: PROPOSED REVISION
OF THE CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR
DISCHARGES FROM IRRIGATED LANDS
SWRCB/OCC FILE NOS. A-1536 AND A-1536(a)

Having reviewed the Regional Board's Public Notice in the above-entitled proceeding and Association of California Water Agencies' request for a time extension, I ask you to consider extending the time for preparation of responses to these important issues. A corresponding extension of the hearing date should also be considered. Such extensions would be consistent with statements I made at the February 2003 informal meeting on the petitions regarding the need for a full and thorough review of these matters.

As I indicated in my April 9, 2003, letter to the Petitioners of the Regional Board's earlier action, it is extremely important to develop a full record in this proceeding. Development of such a full record necessitates adequate time to prepare and submit evidence. Without such a record, the State Board would have to consider holding its own evidentiary hearing(s) and/or allowing a


Mr. Robert Schneider, Chair

- 2 -

APR 17 2003

reasonable time period to augment the record. Since I believe that the Regional Board is the more appropriate forum for a full discussion of the issues, I ask that extensions of time be considered.

Sincerely,


Arthur G. Baggett, Jr.
Chair

cc: William J. Thomas, Esq.
Livingston & Mattesich Law
Corporation
1201 K Street, Suite 1100
Sacramento, CA 95814-3938

Mr. Michael Lozeau
Earthjustice
553 Salvatierra Walk
Stanford, CA 94305-8620

Ms. Sejal Choksi
WaterKeepers Northern California
55 Hawthorne Street, Suite 550
San Francisco, CA 94105

Mr. David Bolland
Association of California
Water Agencies
910 K Street
Sacramento, CA 95814



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Executive Office

1001 I Street, 25th Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5615 ♦ FAX (916) 341-5621 ♦ www.swrcb.ca.gov



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APR 09 2003

William J. Thomas, Esq.
Livingston & Mattesich Law Corporation
1201 K Street, Suite 1100
Sacramento, CA 95814-3938

Ms. Sejal Choksi
WaterKeepers Northern California
55 Hawthorne Street, Suite 550
San Francisco, CA 94105

Mr. Michael Lozeau
Earthjustice
553 Salvatierra Walk
Stanford, CA 94305-8620

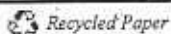
Dear Mr. Thomas, Mr. Lozeau, and Ms. Choksi:

PETITIONS OF AGRICULTURAL WATER QUALITY COALITION; DELTAKEEPER; SAN FRANCISCO BAYKEEPER; NATURAL RESOURCES DEFENSE COUNCIL; CALIFORNIA PUBLIC INTEREST RESEARCH GROUP; THE OCEAN CONSERVANCY; CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS, RESOLUTION NO. R5-2002-0201), CENTRAL VALLEY REGION: STATUS OF PETITIONS AFTER MEDIATION
SWRCB/OCC FILE NOS. A-1536 AND A-1536(a)

The purpose of this letter is to discuss the status of your petitions in this matter, and future anticipated actions by the State Water Resources Control Board (State Board) and the Central Valley Regional Water Quality Control Board (Regional Board). The two petitions challenge the conditional waiver for irrigated agriculture, which was adopted by the Regional Board in December 2002. Upon receipt of your petitions, the State Board held a meeting with all participants. As a result of that meeting, the State Board hired a mediator, and two mediation sessions were held with the petitioners. Unfortunately, that mediation did not result in an agreement, and no further sessions will be held.

The Regional Board plans to issue a draft that may revise the conditional waiver. The matter is planned for the Regional Board's April meeting. I encourage you to participate in that meeting fully. I do not anticipate that the State Board will hold a separate hearing, so it is important to provide the Regional Board all evidence you may have on the matter. Following any action by the Regional Board, the State Board will request any amendments to your petitions occasioned by the action. At that time, we will inform you as to the completeness of the petitions. If there is still a request for a stay at that time, it will be processed then.

California Environmental Protection Agency



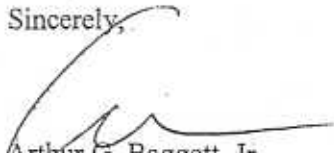
William J. Thomas, Esq., et al.

- 2 -

APR 09 2003

If you have any questions regarding this letter, please call Elizabeth Miller Jennings at (916) 341-5175

Sincerely,



Arthur G. Baggett, Jr.
Chair

cc: Mr. Thomas R. Pinkos
Executive Officer
Central Valley Regional Water Quality
Control Board
3443 Routier Road
Sacramento, CA 95827-3003

Mr. James Pedri
Assistant Executive Officer
Central Valley Regional Water Quality
Control Board, Redding Office
415 Knollcrest Drive
Redding, CA 96002

Mr. Loren Harlow
Assistant Executive Officer
Central Valley Regional Water Quality
Control Board, Fresno Office
1685 E Street
Fresno, CA 93706-2020

Frances L. McChesney, Esq.
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

Mr. George H. Soares
Kahn, Soares & Conway
1112 I Street, Suite 200
Sacramento, CA 95814

Natural Resources Defense Council
71 Stevenson Street, Suite 1825
San Francisco, CA 94105
Attention: Mr. Jonathan Kaplan


California Public Interest
Research Group
3486 Mission Street
San Francisco, CA 94110
Attention: Ms. Teri Olle

California Sportfishing Protection
Alliance
1248 East Oak Avenue, No. D
Woodland, CA 95776
Attention: Mr. Jim Crenshaw

DeltaKeeper/WaterKeepers
Northern California
3536 Rainier Avenue
Stockton, CA 95204
Attention: Mr. Bill Jennings

cc: Continued next page

California Environmental Protection Agency

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APR 09 2003

cc: (Continued)

Ms. Brenda J. Southwick
California Farm Bureau Federation
2300 River Plaza Drive
Sacramento, CA 95833

Mr. David Guy
Northern California Water Association
455 Capitol Mall, Suite 335
Sacramento, CA 95814

Mr. Jasper Hempel
Western Growers Association
1005 12th Street, Suite A
Sacramento, CA 95814

Mr. John Hewitt
California Farm Bureau Federation
2300 River Plaza Drive
Sacramento, CA 95833

The Ocean Conservancy
116 New Montgomery Street, Suite 810
San Francisco, CA 94105
Attention: Ms. Linda Sheehan

Mr. David Beckman
Natural Resources Defense Council
6310 San Vicente Boulevard, Suite 250
Los Angeles, CA 90048

Mr. Alan Short
San Joaquin River Tributaries Group
Modesto Irrigation District
P.O. Box 4060
Modesto, CA 95352

Mr. David Bolland
Association of California
Water Agencies
910 K Street
Sacramento, CA 95814